



Written Evidence to the Committee for the First and Deputy First Minister's Inquiry into Building A United Community

1. The Children's Law Centre

1.1 The Children's Law Centre (CLC) is an independent charitable organisation established in September 1997, which works towards a society where all children can participate, are valued, have their rights respected and guaranteed without discrimination and where every child can achieve their full potential.

1.2 CLC undertakes education, training and research on children's rights, produces information on a wide range of children's rights topics and makes submissions on law, policy and practice affecting children and young people. We have a dedicated free phone legal advice line for children and young people and their parents and carers, known as CHALKY, through which we offer free legal advice and information on a wide range of children's legal rights issues. CLC also has a youth advisory group called youth@clc that act as peer advocates and inform our work. CLC provides free legal representation in strategic cases. We represent at the Special Educational Needs and Disability Tribunal, School Admission and Expulsion Appeals Tribunals and the Mental Health Review Tribunal. We also provide legal representation in a limited number of strategic cases via judicial review and have experience of submitting written and making oral interventions as a Third Party to proceedings in a small number of cases with a particular focus on children's rights.

Within our policy, legal, advice and representation services we deal with a range of issues in relation to children and the law, including the law with regard to some of our most vulnerable children and young people, such as looked after children, children who come into conflict with the law, children with special educational needs, children living in poverty, children with disabilities, children with mental health problems and children and young people from ethnic minority backgrounds, including Traveller children.

1.3 Our organisation is founded on the principles enshrined in the United Nations Convention on the Rights of the Child (UNCRC), in particular:

- Children shall not be discriminated against and shall have equal access to protection.
- All decisions taken which affect children's lives should be taken in the child's best interests.
- Children have the right to have their voices heard in all matters concerning them.

1.4 The human rights standards contained in the UNCRC should be reflected in all laws and policies emanating from the Northern Ireland Assembly as one of the devolved regions of the UK Government. The UK Government as a signatory to the UNCRC is obliged to deliver all of the rights contained within the Convention for children and young people. From its perspective as an organisation which works with and on behalf of some of our most vulnerable and socially excluded children and young people, both directly and indirectly, CLC is grateful for the opportunity to provide evidence on the Inquiry into Building A United Community. CLC has been extremely supportive of and worked extensively on the need to promote equality of opportunity and good relations since the introduction of the Northern Ireland Act 1998 as we believe that both duties have the potential to make a meaningful difference to the lives of children and young people across Northern Ireland.

2. International Children's Rights and Human Rights Standards

2.1 CLC believes that the Inquiry into Building a United Community must be conducted within the framework of international children and human rights standards, in particular the European Convention on Human Rights (ECHR), as incorporated into domestic law by the Human Rights Act 1998 and the UNCRC. We would also submit that in carrying out the Inquiry the Committee for the Office of the First and Deputy First Minister should also take into account all of the Committee on the Rights of the Child's¹ Concluding Observations made following examinations of the United Kingdom's compliance with the UNCRC and relevant General Comments issued by the Committee to assist in interpreting the obligations under the UNCRC.

2.2 Through the ratification of the UNCRC the Government has committed to giving effect to a set of non-negotiable and legally binding minimum standards and obligations in respect of all aspects of children's lives. Government has also committed to the implementation of the Convention by ensuring that United Kingdom (and that of the devolved administrations) law, policy and practice relating to children is in conformity with UNCRC standards. The UK Parliamentary Joint Committee on Human Rights in its report² on the UNCRC described the obligations the UNCRC places on Government as follows:

"The Convention should function as the source of a set of child-centred considerations to be used as yardsticks by all departments of Government when evaluating legislation and in policy-making... We recommend, particularly in relation to policy-making, that Government demonstrate more conspicuously a recognition of its obligation to implement the rights under the Convention."³

2.3 All children and young people under 18 are entitled to enjoy the protection of all rights afforded by the UNCRC. At its core the Inquiry into Building a United Community must ensure that primary consideration is given to the best interests of the child (article 3), in a manner which is non-discriminatory (article 2) and which

¹ The independent body that monitors implementation of the UNCRC by its States parties.

² Joint Committee on Human Rights 'The UN Convention on the Rights of the Child' Tenth Report of Session 2002 – 03, HL Paper 117, HC 81.

³ *Ibid*, para 25.

respects and takes into account the views of the child (article 12), protecting the child's inherent right to life, survival and development to the maximum extent possible (article 6). In addition to these principles of the Convention, other Convention articles relevant to the Inquiry include the child's rights to freedom of thought, conscience and religion (article 14), freedom of association and peaceful assembly (article 15), privacy and family life (article 16), protection from abuse and neglect (article 19), play and leisure (article 31) and protection from torture and deprivation of liberty (article 37).

- 2.4 The ECHR as incorporated by the Human Rights Act 1998 must guide the Committee in carrying out its Inquiry into Building a United Community. Relevant to the Inquiry are the right to life (article 2), the right to freedom from torture, inhuman and degrading treatment (article 3), the right to liberty and security (article 5), the right to respect for private and family life (article 8), the right to freedom of thought, conscience and religion (article 9), freedom of assembly and association (article 11) and the right to protection from discrimination in conjunction with any of the other Convention rights (article 14).
- 2.5 The Committee on the Rights of the Child in its most recent examination of the UK Government's compliance with its obligations under the UNCRC⁴ highlighted its concerns about inequality in a number of areas in its Concluding Observations⁵ and called on the UK Government and its devolved administrations to address inequalities in children's lives across a range of areas including poverty, standard of living, education and health. The Committee also called on the Government to take action to address discrimination faced by children and young people and to introduce penal sanctions to address discrimination faced by children and young people if necessary. It also called on the Government to promote, facilitate and implement, in legislation as well as in practice, within a range of settings, including communities, the principle of respect for the views of the child and called on the Government to collaborate with civil society organisations to increase opportunities for children's meaningful participation.

3. Building a United Community – Good Relations

- 3.1 CLC is very supportive of the vision outlined in the Together: Building a United Community Strategy,

“a united community, based on equality of opportunity, the desirability of good relations and reconciliation - one which is strengthened by its diversity, where cultural expression is celebrated and embraced and where everyone can live, learn, work and socialise together, free from prejudice, hate and intolerance.”

It is our view that the creation of a united community with equality of opportunity, good relations and reconciliation at its core is critical. We have a number of concerns

⁴ 23rd and 24th September 2008

⁵ 3rd October 2008, CRC/C/GBR/CO/4

however that the importance of 'equality of opportunity' is not adequately reflected in the Terms of Reference of this Inquiry.

- 3.2 CLC is one of the lead organisations working on the full and proper implementation of section 75 of the Northern Ireland Act 1998, the legislative embodiment of the relevant provisions of the Good Friday/Belfast Agreement. We are firmly committed to the full implementation of and effective operation of the section 75 and have worked towards this since the implementation of the Northern Ireland Act 1998. We believe that the importance of section 75 cannot be over emphasised and it is vital to acknowledge the high constitutional importance of section 75 in the context of the new settlement in Northern Ireland. Children and young people are the most vulnerable group in our society and they are not a homogenous group. Most will fall into a number of the section 75 categories as children and young people have multiple identities which should afford them extra protection under section 75. CLC has evidence that the effective operation of section 75 has the potential to deliver extremely positive outcomes for children and young people, however it is our experience that the potential of section 75 has not been realised to date and while there has been some success with regard to compliance with section 75, on the whole section 75 has not delivered to the maximum extent possible for children and young people in Northern Ireland. We would welcome a greater emphasis on and more progress being made in the proper discharge of and consequent realisation of the obligations under section 75 to improve the lives of children and young people in Northern Ireland.
- 3.3 The Committee will be aware that section 75 of the Northern Ireland Act 1998 places two distinct but inter-related duties on designated public authorities in Northern Ireland. The first of these duties is detailed in Section 75(1) and is known as the 'equality duty'. This duty places a positive obligation on designated public authorities in Northern Ireland, to have due regard to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally, between persons with a disability and persons without; and between persons with dependants and persons without. **Critically it entails more than the elimination of discrimination and requires designated public authorities in Northern Ireland to take proactive action to promote equality of opportunity between members of the 9 section 75 categories identified in section 75(1). It also encourages public authorities in Northern Ireland to take action to address inequality among members of the 9 specified groups where inequality has been identified.**
- 3.4 The second duty is the 'good relations' duty and this can be found in section 75(2) of the NI Act 1998. Section 75(2) places an obligation on public authorities to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group. Guidance on this duty is clear that it extends beyond the religious / political dimension of 'community relations' and that compliance with the good relations duty requires consideration of the needs and interests of all minority ethnic groups.
- 3.5 One important point to note is the difference between the weight to be given by public authorities with regard to the duties under section 75(1) and (2). Section 75(1) talks

about the obligation on public authorities to have *due* regard to the need to promote equality of opportunity between members of each of the nine section 75 categories and the good relations duty in section 75(2) refers to the need to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group. The term 'due regard' was intended by parliament, after significant parliamentary scrutiny to be and is stronger than 'regard', meaning that it is the legislative intention that the equality duty is the stronger of the two duties and places a greater obligation on designated public authorities. This weighting in the Northern Ireland Act 1998 is reflective of the provisions of the Good Friday/Belfast Agreement and the development of the earlier non-statutory Policy Appraisal and Fair Treatment (PAFT) Guidelines.

- 3.6 Even though one duty is stronger than the other both duties always apply. Where there is a perceived tension between the two duties, both duties need to be discharged in all circumstances. What the greater strength of the equality duty means in law and practice is that the discharge of the good relations duty cannot be an alternative to or set aside the equality of opportunity duty.
- 3.7 While CLC is very supportive of an increased emphasis on good relations with a view to the move towards a more peaceful, inclusive and shared society for our children and young people, it is CLC's experience that the good relations duty has on a number of occasions been misused and misinterpreted by designated public bodies and in so doing they have undermined and fail to give effect to the equality duty under section 75, i.e. the emphasis was on equal treatment rather than equality of opportunity. With regard to this Committee Inquiry and its focus on seeking views on good relations and what good relations means it is vital in developing a definition of good relations that the will and intention of Parliament in drafting section 75 of the Northern Ireland Act 1998 and the provisions of the Good Friday/Belfast Agreement are upheld with primacy being afforded to the equality duty.
- 3.8 The concept of good relations was first introduced in law in Northern Ireland by a rarely used provision under Article 67 of the Race Relations (Northern Ireland) Order 1997 which places a statutory duty on councils to eliminate unlawful discrimination and to promote equality of opportunity and good relations between different racial groups. This was followed by the introduction of the good relations duty under section 75(2) of the Northern Ireland Act 1998. Further examination of good relations was contained within OFMDFM's "*A Shared Future*,"⁶ document and the Northern Ireland Executive's, "*Together: Building a United Community*," strategy (TBUC)⁷.
- 3.9 TBUC proposes to represent a major change in the way that good relations will be delivered across government. It also proposes, rightly in CLC's view, that the promotion of equality of opportunity is an essential element in the building of good community relations and considers that good relations cannot and should not be built on a foundation of inequality⁸. TBUC states that,

⁶ 2005

⁷ May 2013

⁸ *Ibid*, para 1.17

“...all of our policy making and legislative actions must take into account the Section 75 duties in their entirety. Whilst the main focus of this document is on improving community relations, we cannot look at these issues in isolation. To tackle issues of inequality we must improve equality of opportunity; by improving equality of opportunity for all, we make positive strides to address better community relations. Likewise, by tackling sectarianism, prejudice and hate we can contribute positively to removing and reducing the motivation for discrimination. Therefore, in our decision making and policy implementation, we regard the promotion of equality of opportunity as an essential element in the building of good community relations and consider that good relations cannot and should not be built on a foundation of inequality.”⁹

- 3.10 CLC is very supportive of this analysis of the relationship between good relations and equality of opportunity and believes that the full and proper implementation of section 75(1) of the Northern Ireland Act 1998 is key to progressing good relations in Northern Ireland and ensuring the promotion of equality of opportunity and addressing sectarianism and division.
- 3.11 CLC is supportive of the need for a definition of good relations as we believe that clarity of law and measurement of success can only be achieved through the adoption of a clear and understandable definition of what is meant by good relations. We believe that the development of an agreed definition of good relations should be done through widespread consultation with stakeholders, including children and young people and their advocates to obtain the views of children and young people living with division and inequality. Central to compliance with the statutory duties imposed under section 75 is the concept of increased participation in policy making and development through public consultation. There is an obligation on public authorities to carry out public consultation on the impact of policies and on matters to which the section 75 statutory duties are likely to be relevant. This would clearly apply to the establishment of a definition of good relations.
- 3.12 The intention of the equality duty under section 75 is to encourage public authorities to address inequalities and demonstrate measurable positive impact on the lives of people experiencing inequalities. Its effective implementation should improve the quality of life for all of the people of Northern Ireland. It is clear that a great deal of work remains with regard to ensuring equality of opportunity for all in Northern Ireland. There is widespread acknowledgement that inequalities exist across all areas of children’s lives including income levels, standard of living, access to health care and health outcomes, educational attainment levels, lifetime opportunities etc. The equality duty under section 75 aims to mainstream equality of opportunity among members of the nine groups detailed in the legislation through changing the practices of Government and public authorities so that equality is central to policy making, policy implementation and service delivery. Such an approach can address inequalities which exist but it requires positive action to give all children the opportunity to develop to their maximum potential and to break the cycle of disadvantage and inequality faced by many vulnerable groups in society. It is therefore fundamental that the primacy of the equality duty under section 75 is respected in developing a definition of good relations.

⁹ *Ibid*

- 3.13 The Equality Commission's Guidance, "*Section 75 of the Northern Ireland Act 1998 A Guide for Public Authorities*"¹⁰ is clear that the Section 75 statutory duties require more than the avoidance of discrimination. The Guidance states that public authorities should actively seek ways to encourage greater equality of opportunity and good relations through their policy development. It also provides that public authorities should give particular consideration to positive action where the impact of a policy will affect different people in a different way recognising that certain groups may experience greater inequalities¹¹.
- 3.14 It is also CLC's view that if section 75 was fully implemented by designated public authorities, both with regard to the equality and good relations duties, outcomes for children and for society more generally would be significantly improved with regard to tolerance and integration through meaningfully addressing the inequalities which exist in society and impact so negatively on children's lives and life chances in Northern Ireland.
- 3.15 CLC has number of concerns about the implementation of section 75 to date which we believe must be addressed in taking forward work on good relations and giving effect to both the equality of opportunity and good relations duties. Underpinning all concerns on the effective operation of section 75 is the lack of a sufficient enforcement mechanism and sanctions which we believe must be addressed in examining good relations and enhancing policy in uniting communities and community integration, including how communities are involved in decision making as per the Terms of Reference of this Inquiry. Schedule 9 of the Northern Ireland Act 1998 details the procedures to follow when there is a perceived breach of a public body's section 75 duties. Complaints can be made to the Equality Commission by a person who claims to have been directly affected¹² by the failure of a public authority to comply with its equality scheme¹³ or the Equality Commission can carry out an investigation into a public authority's compliance without having received a complaint¹⁴.
- 3.16 As stated above, there are extremely limited sanctions in terms of the outcome of an investigation. In the case of Northern Ireland public bodies, the Equality Commission is required to compile a report with recommendations for action by the public authority if deemed necessary. If the Commission considers the action recommended has not been taken within a reasonable time, the Commission may refer the matter to the Secretary of State who may give directions to the public authority¹⁵. If the public authority is a Government Department, the Secretary of State does not have the power to issue directions but the Commission has discretion to lay the report before Parliament¹⁶ as was the case with the Commission's report on its investigation of a complaint by the Children's Law Centre of a failure by the Northern Ireland Office

¹⁰ April 2010

¹¹ *Ibid*, pages 8 and 9

¹² Schedule 9, para 10 Northern Ireland Act 1998

¹³ A document approved by the Equality Commission which outlines a public authority's arrangements for complying with its section 75 obligations.

¹⁴ *Op cit.* 12

¹⁵ *Op cit.* 12, para 11(2)-(5)

¹⁶ *Op cit.* 12, para 12(5)

(NIO) to comply with its Equality Scheme. Despite the Equality Commission's recommendation that the NIO carry out an Equality Impact Assessment¹⁷ on that occasion, the Secretary of State's Ministerial Statement stated that, "...an Equality Impact Assessment was not necessary."¹⁸ There is the possibility of legal redress in relation to a breach of section 75. In the Court of Appeal Judgement¹⁹ in the Re Neill Application for judicial review the court ruled that,

*"The conclusion that the exclusive remedy available to deal with the complained of failure of NIO to comply with its equality scheme does not mean that judicial review will in all instances be unavailable. We have not decided that the existence of the Schedule 9 procedure ousts the jurisdiction of the court in all instances of breach of section 75... Judicial review should therefore be available to deal with substantive breaches of the section. ."*²⁰

However it is unclear what type of breach will be considered a substantive breach of section 75.²¹

- 3.17 CLC believes that an effective enforcement mechanism is critical in ensuring the realisation of the full potential of equality of opportunity and good relations. We believe lessons must be learned in the course of this Inquiry from the failure of section 75 of deliver as it was intended. A central element to this is ensuring the enforcement of compliance with equality of opportunity and good relations as the foundation for good relations.

4 Building a United Community – How communities are involved in decision making

- 4.1 We are very supportive of the Committee for OFMDFM examining how communities are involved in decision making as part of this Inquiry. It is CLC's experience that the involvement of children and young people in decision making is piecemeal at best. CLC has continually raised the lack of involvement of children and young people in policy making including in their communities as an issue across all aspects of children's lives with various Government Departments and agencies. It is CLC's view that the exclusion of children and young people from decision making in their communities on issues which impact on their lives leads to adult based solutions to community wide issues.
- 4.2 CLC would submit that Article 12 of the UNCRC is particularly relevant to any discussion around how children and young people are involved in policy and decision making including within their communities . Article 12 of the UNCRC provides that,

¹⁷ The mechanism where proposed and existing policies are assessed to determine their impact on members of the nine categories under section 75

¹⁸ Peter Hain's Ministerial Statement on Equality Commission Report on ASBOs 16th March 2006

¹⁹ Re Neill Application for judicial review [2006] NICA 5

²⁰ *Ibid*, para 30

²¹ *Ibid*

“States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.”

Article 12 as one of the general principles of the UNCRC, establishes not only a fundamental right in itself, but should also be considered in the interpretation and implementation of all other rights contained within the UNCRC.²²

- 4.3 The Committee on the Rights of the Child has issued General Comment No. 12 on the right of the child to be heard in order to assist States in the effective implementation of Article 12. This identifies that the views expressed by children may add relevant perspectives and experience and should be considered in decision-making, policymaking and the preparation of laws.²³ The Committee also emphasises that Article 12 requires not only the participation of individual children and clearly defined groups of children, but the participation of groups of children, such as indigenous children, children with disabilities, or children in general, who are affected directly or indirectly by social, economic or cultural conditions of living in their society.²⁴

In highlighting the link between Article 12 and Article 2 of the UNCRC, the Committee on the Rights of the Child notes that Article 2 provides that every child has the right not to be discriminated against in the exercise of his or her rights, including those provided under Article 12. States are required to address discrimination, including against vulnerable or marginalised groups of children, to ensure that children are assured their right to be heard and are enabled to participate in all matters affecting them on an equal basis with all other children.²⁵

- 4.4 The UN Committee on the Rights of the Child notes within the General Comment that much of the opportunity for children’s participation takes place at the community level. The Committee welcomes the growing number of local youth parliaments, municipal children’s councils and *ad hoc* consultations where children can voice their views in decision making processes, but highlights that these structures for formal representative participation in local government should be just one of many approaches to the implementation of Article 12 at the local level, as they only allow for a relatively small number of children to engage in their local communities.²⁶ The Committee urges States parties to avoid tokenistic approaches, which limit children’s expression of views, or which allow children to be heard, but fail to give their views due weight. It emphasises that if participation is to be effective and meaningful, it needs to be understood as a process, not as an individual one-off event.²⁷

²² United Nations Committee on the Rights of the Child General Comment No. 12 (2009) ‘The right of the child to be heard’, CRC/C/GC/12, 20th July 2009, para.2.

²³ *Ibid*, para.12.

²⁴ *Ibid*, para.87.

²⁵ *Ibid*, para.75.

²⁶ *Ibid*, para.127.

²⁷ *Ibid*, para.132 – 133.

- 4.5 In addition, the UN Committee on the Rights of the Child, in its 2008 Concluding Observations, following the most recent examination of the United Kingdom Government's compliance with the UNCRC recommended that the United Kingdom, in accordance with Article 12 of the Convention, should promote, facilitate and implement, in legislation as well as in practice, within the family, schools, and the community as well as in institutions and in administrative and judicial proceedings, the principle of respect for the views of the child. The Committee further recommended support for forums for children's participation.²⁸
- 4.6 It is clear from the UNCRC and the associated recommendations of the Committee on the Rights of the Child that the participation of children and young people in decision making including within their communities is vital. CLC is concerned that currently children and young people's voices are not sufficiently heard in policy and decision making including within their communities. We recommend that formal mechanisms be introduced to ensure sufficient inclusion of children and young people within decision making structures in communities in line with the obligations under Article 12 of the UNCRC.
- 4.7 The meaningful involvement of children and young people in community decision making is vital when one considers that it is well acknowledged that children and young people are disproportionately viewed as being involved in crime and anti-social behaviour²⁹. The Northern Ireland Policing Board's (NIPB) Children and Young People's Thematic Review³⁰ noted that children and young people are subjected to inaccurate and unfair stereotyping and that rather than being subjected to this, children and young people must be protected and respected.³¹ The Review considered issues around anti-social behaviour out of a desire not to suggest that children and young people are the protagonists of such behaviour, but rather because they are often *perceived* to be the protagonists, a myth the Review wished to dispel.³² The Review highlighted that in communities built upon mutual empathy and respect, there was a reduction in the perception of anti-social behaviour. The negative stereotyping of children and young people fed perceptions of anti-social behaviour, and this almost certainly resulted in increased numbers of reports to the police and an increased focus by the police in response.³³ This diminished the ability of the police to concentrate on policing actual criminal activity. CLC believes that the meaningful involvement of children and young people in decision making including in their communities is vital given the fundamental importance of the involvement of young people in the issues of policing and community safety and the need for their voices to be heard in developing inclusive and effective solutions.

²⁸ United Nations Committee on the Rights of the Child, Concluding Observations United Kingdom, CRC/C/GBR/CO/4, 20th October 2008, para.33(a) and (b).

²⁹ 'Hoodies or altar boys? What is media stereotyping doing to our British boys?' Women in Journalism, March 2009.

³⁰ January 2011

³¹ 'Human Rights Thematic Review – Children and Young People' Northern Ireland Policing Board, January 2011, p.3.

³² *Ibid*, p.14.

³³ *Ibid*, p.15.

5 Building a United Community – Addressing sectarianism and division

- 5.1 CLC is supportive of the emphasis in this Inquiry on what good relations means in practice, on bringing divided communities together and on addressing intolerance and issues to encourage community integration. We believe that in attempting to address community division and intolerance, solutions must be long term, sustainable and in the best interests of the entire community. CLC does not believe that such solutions can be arrived at without a comprehensive examination of the legacy of the conflict and the particular circumstances which exist in Northern Ireland as a result of the conflict including its impact on children's lives on a daily basis.
- 5.2 The complexity of the legacy of the Northern Ireland conflict and its associated issues, which impact on the lives of our children and young people who are growing up in post conflict Northern Ireland, require significant interrogation. CLC believes that the legacy of the Northern Ireland conflict is very pervasive today in the lives of our children and young people. We examine below some of the issues faced by children and young people in Northern Ireland as a consequence of the conflict, which we believe need to be addressed in ensuring long term solutions and a settlement which will guarantee a more secure future for the children and young people of Northern Ireland.
- 5.3 The Office of the First Minister and Deputy First Minister³⁴ records that 36% of those killed in the conflict in Northern Ireland were children and young people. Goretti Horgan and Marina Monteith³⁵ found that children and young people living in areas of deprivation continue to experience social exclusion and conflict related violence. They note growing evidence that children are suffering mental ill health as a result of inter-generational trauma. Meanwhile, Government acknowledges the inadequate provision of child and adolescent mental health services³⁶ and indeed CLC has determined that investment in child and adolescent mental health services is extremely inadequate to meet the growing need.
- 5.4 There are no complete figures for children injured as a result of the conflict. Between 1991 and 1997, 120 young people were shot (usually in the kneecaps) and 234 assaulted by paramilitaries. All of these young people come from the most disadvantaged communities³⁷. While there had been a steady decline in shootings and assaults by non-state forces in Northern Ireland since 2000/01, according to the Police Service of Northern Ireland (PSNI) statistics, there was a sharp increase of around 125% in the number of non-state force style shootings (from 20 to 46) and a near 100% increase in the number of non-state force style assaults between 2008/09 and 2009/10 (from 41 to 81).³⁸ Unfortunately these PSNI statistics are not collated by age, therefore we do not know how many of these attacks were targeted at children or young people. Further PSNI statistics show that whilst the number of non-state

³⁴ 2006

³⁵ 2009

³⁶ 2006

³⁷ "The Impact of Political Conflict on Children in Northern Ireland" Smyth et al 2004

³⁸ 'Police Recorded Security Situation Statistics: Annual Report covering the period 1st April 2011 – 31st March 2012', Police Service of Northern Ireland, p. 5.

force style assaults and shootings has since decreased, from 1st April 2010 until 31st March 2012, there were still 66 non-state style shootings in total.³⁹ Over the same period there were 96 non-state style assaults in total.⁴⁰ It should be noted that these statistics only include those incidents that are brought to the attention of police and some incidents may not have been reported.

- 5.5 In Northern Ireland it is vital that there is adequate acknowledgement of the impacts of the conflict and its legacy. Many of the children whose past trauma went unrecognised and untreated now have families of their own. Trans-generational trauma manifests itself in a variety of ways,

“...it’s affecting children’s education, their mental health and their ability to participate in society.”⁴¹

- 5.6 Children and young people today, *“...are more likely to experience small-scale, sporadic acts of political violence rather than large-scale, widespread violent confrontation”⁴²*. While many will have no direct experience of violence, some do. It has been argued that reflecting the historical, political and social contexts in Northern Ireland, activities involving violence in a post Good Friday Agreement society are generally connected to segregated living and sectarianism.⁴³ Those living in ‘interface’ areas, in particular, are likely to witness or engage in occasional, opportunist acts of violence targeted at members of the ‘other’ community.⁴⁴ It has been argued that the exceptional levels of violence experienced by children during the conflict have led to a high tolerance and ‘normalisation’ of violence as a primary means of settling disputes, demonstrating opposition or drawing attention to perceived injustices.⁴⁵

- 5.7 Research conducted over three years with 196 children and young people across six communities heavily affected by the conflict, with the aim of understanding and exploring the lives of children living in those communities, found that, *“violence has remained a part of everyday life for children and young people living in communities defined by uncertainty, unease and the continued presence of paramilitaries or dissidents”⁴⁶*. Many of the young people interviewed reported being exposed to

³⁹ ‘Police Recorded Security Situation Statistics: Annual Report covering the period 1st April 2011 – 31st March 2012’ Police Service of Northern Ireland, 10th May 2012, p. 2. ‘Police Recorded Security Situation Statistics 2010/11 1st April 2010 to 31st March 2011’, Police Service of Northern Ireland, 12th May 2011, p. 3.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*, p. 244

⁴² Leonard, M. (2007) ‘Trapped in Space? Children’s Accounts of Risky Environments’ Children and Society, Vol. 21, pp. 432-445, p. 433

⁴³ Roche, R. (2008) *Sectarianisms and Segregation in Urban Northern Ireland: Northern Irish Youth Post-Agreement. A Report on the Facts, Fears and Feelings Project*, Belfast: Queens University Belfast, p136-147

⁴⁴ Hansson, U. (2005) *Troubled Youth? Young People, Violence and Disorder in Northern Ireland*, Belfast: Institute for Conflict Research, pp. 18-30

⁴⁵ Horgan, G. (2005) ‘Why the Bill of Rights should protect and promote the rights of children and young people in Northern Ireland. The particular circumstances of children in Northern Ireland’ in Horgan, G. and Kilkelly, U. (eds) *Protecting children and young people’s rights in the Bill of Rights for Northern Ireland. Why? How?*, Belfast: Save the Children and Children’s Law Centre, p. 13

⁴⁶ McAlister, S., Scraton, P. And Haydon, D. (2009) *Childhood in Transition Experiencing Marginalisation and Conflict in Northern Ireland* QUB, Save the Children, The Prince’s Trust. p. 152.

sectarian violence, community violence, rioting against the police and paramilitary style threats and punishments.

- 5.8 Northern Ireland continues to be a highly segregated society. Segregation in housing, education, public services and leisure facilities continues to be the daily reality experienced by most children and young people. Over 90% of public housing continues to be segregated along religious lines.⁴⁷ In Belfast, 98% of public housing is segregated into Protestant or Catholic areas⁴⁸. McAllister et al⁴⁹ found segregation to be a defining characteristic of children and young people's lives, "*every aspect of the lives of children and young people was defined by division-their identities, communities, schools, social networks, sporting activities and use of free-time*".⁵⁰ Children learn the language of division from about 2 years of age and are then educated mainly in separate schools. Friendships in adult life are mainly in-group as are some 90% of marriages.⁵¹
- 5.9 Given the "conflict profile" of children in Northern Ireland CLC believes that it is essential that there is increased investment in child and youth focused services in the communities most impacted upon by the conflict.
- 5.10 It has been well recognised that factors associated with the conflict and with a society emerging from conflict have impacted severely on child and adolescent mental health in Northern Ireland.⁵² The Chief Medical Officer estimated that more than 20% of young people in Northern Ireland are suffering "*significant mental health problems*" by their 18th birthday.⁵³ Yet there has been a gross failure to recognise and respond to the long term consequences of trans-generational trauma. McAlister et al⁵⁴ have noted that,

*"...the inter-relationship of unaddressed conflict-related trauma, interpersonal violence within families, continuing paramilitary intimidation, forced exiling, economic marginalisation and social exclusion constitute 'special circumstances' for children, young people and their families in Northern Ireland".*⁵⁵

There has been an associated failure to adequately resource appropriate mental health services.⁵⁶ In Northern Ireland in 2012/13, only £19m has been allocated to Child and Adolescent Mental Health Services, which equates to 7.9% of the total

⁴⁷ *Mixed housing scheme is launched*, Northern Ireland Housing Executive, 30 October 2006.

⁴⁸ *Constructions of Social Exclusion Among Young People From Interface Areas of Northern Ireland* Owen Hargie, Aodheen O'Donnell, and Christel McMullan, Youth Society, 2011

⁴⁹ 2009

⁵⁰ *Op cit* 46 p 151.

⁵¹ *Op cit* 48

⁵² DHSSPS (2005) *A Vision for a Comprehensive Child and Adolescent Mental Health Service – The Bamford Review* November pp 15-16

⁵³ Chief Medical Officer (1999) *Health of the Public in Northern Ireland: report of the Chief Medical Officer, 1999: Taking care of the next generation* Belfast DHSSPS.

⁵⁴ 2009

⁵⁵ *Op cit* 46 p 25

⁵⁶ O' Rawe, A. (2003) *An Overview of Northern Ireland Child and Adolescent Mental Health Services* Belfast: Children's Law Centre.

mental health expenditure for that period⁵⁷, despite the fact that children and young people under 18 represent nearly a quarter of Northern Ireland's population.

- 5.11 Children living in areas most impacted upon by the conflict are more likely to have mental health needs. Evidence that experience of the Northern Ireland conflict is associated with poorer mental health is strong⁵⁸. Population-based surveys show that those who experienced most violence have significantly higher rates of depression than those with little or no experience. People whose areas had been heavily affected by violence had very high rates of depression⁵⁹. Children have been injured, killed, subject to punishment beatings, bereaved and have witnessed terrible violence.⁶⁰ Many children remain undiagnosed and services are patchy and geographically uneven.
- 5.12 There is an extremely worrying and rising suicide rate, particularly in relation to under 18's, in the most deprived areas in Northern Ireland which are also the areas to have suffered worst as a result of the Northern Ireland conflict. North and West Belfast has a population of around 150,000 living in some of the most socially and economically disadvantaged wards in Northern Ireland. The area has a large youth population and the impact of the conflict in these areas has been widespread. Research shows a higher rate of mental illness in the North and West Belfast Trust area than elsewhere in Northern Ireland. The average rate of suicide in Northern Ireland is 9.8 per 100,000. In North and West Belfast the rate is much higher with an average approaching 18 per 100,000⁶¹.
- 5.13 The Guardian newspaper reported in March 2011⁶² that suicide rates have been rising markedly in Northern Ireland over the past decade. According to the Public Health Agency (PHA), after a period of relatively static figures in the latter half of the last century, between 1999 and 2008 rates of suicide in Northern Ireland increased by 64%. Most of the rise was attributable to young men in the 15 to 34 age group. A large proportion was concentrated in disadvantaged areas and, in particular, north and west Belfast, the area most impacted upon by the conflict. In 2002, 76% of all suicides in Northern Ireland were male, and 60% were between 15 and 34 years old. By 2008, the latest year for which a reliable breakdown of the statistics is available, 77% of suicides were male, but the proportion aged between 15 and 34 had risen to 72%. This marked increase in the number of suicides in Northern Ireland is at a time when rates in Britain have remained relatively static.
- 5.14 Reasons given for this rise include the long term impact of entrenched deprivation in some communities when coupled with issues of identity in a "post-conflict" society and the legacy of the Troubles for some of the younger generation of men and boys.

⁵⁷ Freedom of Information Request from the Health and Social Care Board, dated 8th April 2013

⁵⁸ Miller *et al.*, 2003; O'Reilly and Stevenson, 2003; Muldoon *et al.*, 2005

⁵⁹ Suicide and Young People: the case of Northern Ireland - Mike Tomlinson School of Sociology, Social Policy and Social Work Queen's University Belfast 4th October 2007

⁶⁰ Geraghty, T. 'Getting It Rights?' Children's Law Centre and Save the Children 1999. pp 53-54 and Smyth, M. 'Half the Battle: Understanding the Impact of the Troubles/Conflict on Children and Young People in Northern Ireland' INCORE. 1998.

⁶¹ June 2006

⁶² <http://www.guardian.co.uk/society/2011/mar/16/suicide-rates-northern-ireland>

- 5.15 Consultant psychiatrist Dr. Philip McGarry contends that there are a number of important aspects of suicide to be considered in the Northern Ireland context, including the legacy of the Troubles. When discussing the fact that suicide rates in Northern Ireland have risen since the Good Friday agreement was signed, Dr. McGarry told The Guardian,

“That paramilitary violence remained a feature of working-class communities such as west and north Belfast “long after” the agreement was signed, and that so many young men in those areas have mental health problems as a result, he says, is no coincidence⁶³.”

- 5.16 There is a clear need in addressing the past and the legacy of the conflict on children and young people in Northern Ireland, to address the under resourcing of child and adolescent mental health services and to invest in suicide prevention, particularly in areas most impacted upon by the conflict.
- 5.17 There is considerable robust evidence to demonstrate that Northern Ireland has higher levels of children living in poverty than any other region in the UK or Ireland. An acknowledgement of the relationship between experience of the conflict and experience of poverty should be reflected in government policy to impact on poverty in the region, if those policies are to be successful.
- 5.18 The inter relationship between poverty and the conflict is deep rooted. Horgan⁶⁴ has noted that, “...*there is a marked concentration of poverty in a relatively small proportion of Northern Ireland’s electoral wards. Many of these wards are in and around the areas most impacted by the conflict*”.⁶⁵ This is illustrated by the fact that in 2006, 25 out of a total of 566 wards recorded child poverty above 75% compared with 180 out of 10,000 wards in Britain.⁶⁶
- 5.19 Recent research supports this finding with the highest levels of poverty being concentrated in areas most impacted upon by the Northern Ireland conflict. In Belfast 60 %, 61%, 64% and 68% of children are living in poverty in the Ardoyne, Whiterock, Falls and Colin Glen Districts respectively. 61% and 63% of children in the Brandywell and Creggan Central Districts of Derry and 66% of children East Strabane live in poverty.⁶⁷
- 5.20 Poverty is a defining factor in the lives of many children and their families in Northern Ireland, negatively affecting health and well-being, educational and employment opportunities and access to quality accommodation⁶⁸. The proportion of children living in poverty in Northern Ireland is higher than the UK average, (20%) with Derry (35%) and Belfast (34%) placed 4th and 5th respectively in a league table of the UK

⁶³ *Ibid*

⁶⁴ 2005

⁶⁵ *Op cit.* 45. p. 7

⁶⁶ McLaughlin, E. and Monteith, M. (2006) *Child and Family Poverty in Northern Ireland* Belfast: OFMDFM Equality Directorate Research Branch

⁶⁷ <http://www.endchildpoverty.org.uk/why-end-child-poverty/poverty-in-your-area>

⁶⁸ Save the Children, 2007

local authority areas with the highest rates of child poverty based on figures for 2012⁶⁹.

- 5.21 Benefit levels remain below the poverty line and income levels of lone parent families and couples with children are lower than comparable levels in Britain. Income deprivation is compounded as poor households pay proportionately more in Northern Ireland for essential goods and services such as food, fuel, transport, insurance and banking. People living in the 20% most deprived electoral wards have poorer life expectancy, higher rates of admission to hospital, more infant deaths and more suicides than Northern Ireland's population as a whole⁷⁰.
- 5.22 The Institute of Fiscal Studies predicts that due to welfare cuts and other austerity measures, child poverty rates in Northern Ireland are likely to rise in 2020 to 30%⁷¹.
- 5.23 By 2014-2015, it was estimated that spending on benefits across the UK will be £18 billion less than it was in 2011 (in cash terms), with the loss to NI benefit recipients of more than £600 million per year.⁷² These cuts are happening at the same time as increasing costs in everyday living (for example housing and household services, which includes utility bills, climbed 30% between August 2007 and January 2013, transport climbed 23%, food and drink climbed 34%⁷³) potentially pushing greater numbers of children and families into poverty.
- 5.24 A report from the Centre for Social Justice⁷⁴ commented that the disillusionment surrounding worklessness among young people has become a critical problem in Northern Ireland. In January - March 2014, there were 32,000 young people (aged from 16 to 24) in Northern Ireland who were Not in Education, Employment or Training (NEET).⁷⁵ For the period January - March 2014, the Northern Ireland NEETs rate for those aged 16-24 stood at 14.6%, compared to a UK average of 12.6%.⁷⁶ Youth unemployment is also extremely high. From April – June 2014, the rate of unemployment amongst young people aged 18 – 24 was 19.4%. The rate was as high as 24.7% in July – September 2013.⁷⁷ A recent study found that a third of long term unemployed young people have contemplated taking their own lives. The research found that long term unemployed young people were more than twice as likely as their peers to have been prescribed anti-depressants. One in three (32%) had contemplated suicide, while one in four (24%) had self-harmed. The report found 40% of jobless young people had faced symptoms of mental illness, including

⁶⁹ http://www.barnardos.org.uk/130212_ecp_local_report_final__2_.pdf

⁷⁰ Haydon, 2008

⁷¹ *Child and Working-Age Poverty in Northern Ireland from 2010 to 2020*, James Browne, Andrew Hood and Robert Joyce, Institute for Fiscal Studies

⁷² Tomlinson, M., Kelly, G. (2011) Response to NI's draft budget, Poverty and Social Exclusion in the UK Project, p.1

⁷³ <http://www.belfasttelegraph.co.uk/business/business-news/high-cost-of-living-in-northern-ireland-29077204.html>

⁷⁴ Breakthrough Northern Ireland, September 2010

⁷⁵ 'Northern Ireland Labour Force Survey' January – March 2014, p.17

http://www.detini.gov.uk/lfs_quarterly_supplement_january-march_2014.pdf?rev=0

⁷⁶ 'Northern Ireland Labour Force Survey' January – March 2014, p.18

http://www.detini.gov.uk/lfs_quarterly_supplement_january-march_2014.pdf?rev=0

⁷⁷ http://www.detini.gov.uk/index/what-we-do/deti-stats-index/labour_market_statistics/stats-labour-market-unemployment.htm Table 2.9 'Unemployment by age'.

suicidal thoughts, feelings of self-loathing and panic attacks, as a direct result of unemployment.⁷⁸

- 5.25 Statistics on educational achievement in Northern Ireland have indicated concerns about underachievement among working class pupils and in particular working class Protestant boys⁷⁹. In 2001, OFMDFM⁸⁰ concluded that the educational non-progressor was most likely to be a Protestant working class male. Recent research from the Community Relations Council⁸¹ found that disproportionate educational underachievement of this particular group of young people continues. 19.7% of Protestant boys who were entitled to free school meals (FSME) achieved at least 5+ GCSEs A*-C or higher (or equivalent) compared with 32.4% of Protestant girls (FSME), 33.2% of Roman Catholic boys (FSME) and 43.8% of Roman Catholic Girls (FSME).
- 5.26 Additional research⁸² which found high levels of under achievement in education by working class Protestant males found that that differentials in educational performance lie (to a degree of 80% or more) outside schools and the classroom. It found that systemic educational improvement will require comprehensive, long-term responses to inequality. The research also highlighted the deindustrialization and the loss of traditional labour markets and skills. Generations of working class Protestants were heavily involved in manufacturing industry and viewed getting a trade as the main form of educational requirement. The collapse in this labour market and the movement towards a consumerist, service driven economy has, to a degree, left elements of the Protestant working class stranded with redundant skills-sets and abilities. It is clear that this results in a sense of alienation for this group of young people.
- 5.27 Children who are underachieving in education are at a greater disadvantage than they have been for some time due to limits in their progression in education preventing them from being able to compete for education and employment opportunities. These children tend to be from socially deprived areas and /or face barriers to learning such as SEN or additional needs related to a disability.
- 5.28 Education is a fundamental element in the provision of opportunities for children and young people in Northern Ireland. The lack of opportunity for children and young people, through the education system failing them, results in a sense of frustration and resentment which manifests itself in a number of negative ways in our communities. In arriving at long term solutions for Northern Ireland to prevent societal regression the Inquiry must consider ways to restore hope to our young people. This involves focusing on the provision of opportunities for children and young people and addressing inequalities in educational attainment by certain groups of young people.

⁷⁸ The Prince's Trust Macquarie Youth Index, January 2014

⁷⁹ Free School Meal entitlement is used as a proxy indicator of deprivation as specific data on pupil's class background are not recorded in official Department of Education databases

⁸⁰ OFMDFM (2001) Report on Participation Rates in Further and Higher Education

⁸¹ Northern Ireland Peace Monitoring Report Number 3, P. Nolan, March 2014

⁸² A Call to Action *Educational Disadvantage and the Protestant Working Class*, Issued by Dawn Purvis MLA and the Working Group on Educational disadvantage and the Protestant working class, March 2011

- 5.29 In Northern Ireland 322,000 people or 18% of the population living in private households have some degree of disability. When broken down this means that 285,000 people or 21% of adults and 26,000 children or 6% have a disability. 37% of households in Northern Ireland include at least one person with a disability and 20% of these contain more than one person with a disability. Prevalence increases with age ranging from 5% among young adults to 67% among those who are very old (85+) and male prevalence rates are only higher than female rates amongst the youngest adults (16 to 25) - 6% of males compared with 4% of females. 8% of boys aged 15 and under were found to have a disability, compared with 4% of girls of the same age⁸³.
- 5.30 Goretti Horgan's research⁸⁴ refers to the fact that there are higher levels of disability and ill health in Northern Ireland than in other parts Great Britain. Some of this is due to physical and mental damage caused by the conflict. But much is related to higher levels of poverty and poor diet generally, particularly the poor diet of many expectant mothers. She also states that, in spite of these higher levels of disability, there is poorer provision of services for families dealing with disability. Some of this dearth of services is likely to be because of the high costs of duplicating some services due to the segregated nature of society here.
- 5.31 Almost half of all claimants of out of work disability benefits in Northern Ireland suffer from mental or behavioural conditions⁸⁵.
- 5.32 Higher levels of disability in Northern Ireland is just one of the legacies of the Northern Ireland conflict. There are a number of factors to consider when examining disability as an issue, including the fact that areas most impacted upon by the conflict have higher rates of both physical and mental disability. The lack of adequate service provision to meet the needs of those with disabilities, the additional cost to families of raising a child with a disability which is estimated to be three times more⁸⁶ and the lack of opportunities for children and young people with disabilities all contribute to a sense of alienation and frustration in communities which live with the legacy of the conflict.
- 5.33 The reality in Northern Ireland is that the communities most impacted upon by and living with the legacy of the conflict are living in poverty. Research shows that worklessness, benefit dependency and poverty are defining factors of the lives of those living in interface areas⁸⁷ and areas most impacted upon by the conflict. Children and young people living in poor communities which as a result of the conflict are almost entirely religiously segregated are often socially excluded and lacking in hope for the future. Rising youth unemployment, poor educational attainment of children from socially deprived areas and a lack of opportunity for children and young

⁸³ DHSSPS's "Physical and Sensory Disability Strategy 2011 – 2015" Consultation December 2010

⁸⁴ "The particular circumstances of children in Northern Ireland", Horgan G November 2005

⁸⁵ DSD IB and SDA statistics, February 2010 data, updated December 2010

⁸⁶ Contact A Family for families with disabled children, Facts and Figures

<http://www.cafamily.org.uk/media-enquiries/>

⁸⁷ *Op cit.* 48

people is resulting in a sense of frustration and resentment of the 'other' community through a perception that their community has been left behind. In arriving at long term solutions for Northern Ireland it is vital that we consider ways to address these fundamental issues. This will involve a clear focus on the provision of opportunities for children and young people, the provision of critical services such as CAMHS and investment in addressing child poverty in line with the Government's obligations under the Child Poverty Act 2010. All of these actions must be approached from the principle of equality of opportunity.

5.34 CLC believes that in order to achieve long term solutions in the best interests of all of our children and young people and their communities that what is necessary is a human rights framework. The imperative of a human rights framework was recognised by all involved in reaching a peace settlement in Northern Ireland.

5.35 The Special Representative of the Secretary General of the United Nations on Children and Armed Conflict, Mr Olara Otunnu after his second visit to Northern Ireland argued that,

"Following conflict, the prospects of recovery often depend largely on giving priority attention to young people in the rebuilding process, rehabilitating young people affected by war, and restoring their sense of hope. This issue must become a priority. All key actors responsible for developing post-conflict peace-building programmes should make the rights and protection of children a central concern in their planning, programming and resource allocation."

He appealed to political leaders,

"to address the basic concerns of children in Northern Ireland, particularly social and educational integration, youth unemployment, substance abuse and poverty, improved access to health facilities and housing, increased access to counselling, and improved administration of child protection and juvenile justice. Children's rights should be incorporated into the new Northern Ireland Bill of Rights."⁸⁸

5.36 The Bill of Rights was an integral part of the peace agreement for Northern Ireland, ensuring that past abuses of human rights which fuelled and maintained the conflict could never re-occur, and that society moved forwards on the basis of respect for human rights and equality for all. Children and young people have been particularly adversely affected by the conflict and violence in our society over recent decades including post the Good Friday/Belfast Agreement. The guaranteeing of protection and respect for children's rights are essential elements in securing a better future for all children, something which a Bill of Rights for Northern Ireland has significant potential to help achieve. A jurisdictionally specific Bill of Rights for Northern Ireland as provided for in the Agreement represents a unique opportunity to enshrine children's rights at a constitutional level in Northern Ireland and to consolidate the protection of children's rights into one binding and enforceable document. In so doing

⁸⁸ United Nations General Assembly Fifty-fifth session: Agenda item 110: Promotion and protection of children's rights. 3 October 2000:pp 9-10

there will be a strong robust foundation on which to address the issues of sectarianism and division.

- 5.37 The political, social, economic and cultural context of children's lives in Northern Ireland illustrate how the conflict and its legacy continue to cast a dark shadow over children and young people's lives today. The harsh reality of too many of our children and young people's lives also underscores how critically important it is that the potential of the Bill of Rights for Northern Ireland to address many of these fundamental rights issues for children and young people is fully realised.
- 5.38 It is extremely disappointing that no significant progress has been made in delivering a Bill of Rights for Northern Ireland since the Northern Ireland Human Rights Commission advised the UK government on recommendations for the content of a Bill of Rights for Northern Ireland in 2008. CLC wishes to see a renewed focus on and commitment to the delivery of a Bill of Rights for all of the people of Northern Ireland.

6. Conclusion

- 6.1 CLC welcomes this Inquiry into Building A United Community being carried out by the Committee of the First and Deputy First Minister. We hope that our comments have been useful in taking the Inquiry forward. CLC believes that equality of opportunity and good relations are central components to addressing intolerance and addressing community division, as well as ensuring the meaningful involvement of children and young people in decision making including in their communities. Equality of opportunity and good relations are also the key to providing long terms solutions to the problems faced by so many of our young people who live with division and inequality on a daily basis. We look forward to the progression of the Inquiry and are grateful for the opportunity to provide evidence to the Committee.